

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
GRAND RAPIDS DIVISION**

MARY BAARS,)	Case No.: 2:15-cv-190
)	
Plaintiff,)	
)	
v.)	
)	
FIFTH THIRD BANK,)	Demand for Jury Trial
)	
Defendant.)	
)	

MARY BAARS (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against FIFTH THIRD BANK (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. 1331.
3. Because Defendant conducts business in the State of Michigan, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiff is a natural person who resides in Grand Rapids, Kent County, Michigan.
6. Defendant is a business entity with its principal place of business in Cincinnati, Ohio.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. Defendant places collection calls to Plaintiff seeking and attempting to collect an alleged debt.
9. Defendant places collection calls to Plaintiff's cellular telephone at phone number (616) 322-97XX
10. Defendant places collection calls to Plaintiff from phone numbers including, but not limited to, 812-590-4192, 614-784-8783, 239-225-2099, 773-981-9135, 800-457-0839 and 513-533-5380.
11. Based upon the timing and frequency of Defendant's calls and per its prior business practices, Defendant's calls were placed with an automated dialing system ("auto-dialer").
12. Around July, 2015, Plaintiff spoke with Defendant's representative and requested that Defendant cease placing calls to her cellular telephone and to correspond only in writing.
13. Plaintiff revoked any consent, express, implied, or otherwise, to receive automated telephone calls from Defendant in the course of the conversation on or around July, 2015.
14. Despite Plaintiff's request to cease, Defendant placed at least one hundred seventy-eight (178) automated collection calls to Plaintiff without prior express consent to do so.

COUNT I

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

15. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).
16. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or

willful violations of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

17. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
18. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
19. All court costs, witness fees and other fees incurred; and
20. Any other relief that this Honorable Court deems appropriate.

Dated: November 16, 2015

RESPECTFULLY SUBMITTED,

/s/ Ryan Lee
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DEMAND FOR JURY TRIAL

Plaintiff, MARY BAARS, requests a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

Plaintiff, MARY BAARS, having first been duly sworn and upon oath, deposes and says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Date: 8/18/15

MARY BAARS
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